

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**BRIAN ZACCARDELLI,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 1:07cv119  
(Judge Bailey)**

**WAYNE A. PHILLIPS, Warden**

**Respondent.**

**ROSEBORO NOTICE**

On October 29, 2007, the respondent filed a Motion to Dismiss the petitioner's petition for writ of habeas corpus. The Court notes that the petitioner is proceeding *pro se*. The Court has a mandatory duty to advise the petitioner of his right to file responsive material, and to alert him to the fact that his failure to so respond might result in the entry of an order of dismissal against him. Davis v. Zahradrich, 600 F.2d 458, 460 (4<sup>th</sup> Cir. 1979); Roseboro v. Garrison, 528 F2d 309, 310 (4<sup>th</sup> Cir. 1975). The petitioner is so advised.

Within thirty (30) days of entry of this Order, the petitioner shall file any opposition explaining why his case should not be dismissed. The petitioner is advised that he must serve the respondent with any response he files.

**IT IS SO ORDERED**

The Clerk of the Court is directed to mail a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket sheet. The Clerk of the Court is further directed to provide a copy of this Order to all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Filing in the United States District Court.

DATED: October 30, 2007.

/s/ James E. Seibert  
**JAMES E. SEIBERT**  
**UNITED STATES MAGISTRATE**